1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 WESTERN DISTRICT OF WASHINGTON AT TACOMA 9 10 LEXINGTON INSURANCE COMPANY, a Delaware corporation, 11 NO. 3:17-cv-05041-BHS Plaintiff. 12 STIPULATION AND ORDER OF **VOLUNTARY DISMISSAL PURSUANT** v. 13 TO F.R.C.P. 41(a)(1)(A)(ii) MULTICARE HEALTH SYSTEM 14 Defendant. 15 Pursuant to F.R.C.P. 41(a)(1)(A)(ii), Plaintiff, LEXINGTON INSURANCE COMPANY, 16 and Defendant, MULTICARE HEALTH SYSTEM, through their respective counsel, submit this 17 Stipulation and [Proposed] Order to voluntarily dismiss the instant action. The parties also 18 stipulate that each side shall bear their own attorney fees, costs and expenses incurred in the 19 instant action. 20 I. **STIPULATION** 21 IT IS HEREBY STIPULATED AND AGREED by and between LEXINGTON 22 INSURANCE COMPANY and MULTICARE HEALTH SYSTEM, through their respective 23 counsel, that: 24 1. The instant action is voluntarily dismissed pursuant to F.R.C.P. 41(a)(1)(A)(ii); 25 and: 26 STIPULATION AND ORDER OF VOLUNTARY GORDON & REES LLP DISMISSAL PURSUANT TO F.R.C.P. 701 5th Avenue, Suite 2100 41(a)(1)(A)(ii) - PAGE 1 Seattle, WA 98104 Case No. NO. 3:17-cv-05041-BHS

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2. Each side shall bear their own attorney fees, costs and expenses incurred in the 1 2 instant action. 3 STIPULATION DATED this 5th day of May, 2017. 4 GORDON & REES, LLP GORDON TILDEN THOMAS & CORDELL, LLP 5 By: s/Donald J. Verfurth By: *s/Matthew F. Pierce* Donald J. Verfurth, WSBA #15554 Matthew F. Pierce, WSBA #34019 6 Neal J. Philip, WSBA #22350 1001 Fourth Avenue, Suite 4000 7 701 Fifth Avenue, Suite 2100 Seattle, WA 98154 Seattle, WA 98104 Telephone: (206) 467-6477 8 Facsimile: (206) 467-6292 Telephone: (206) 695-5100 Facsimile: (206) 689-2822 Email: mpierce@gordontilden.com 9 Email: dverfurth@gordonrees.com Attorney for Defendant Email: nphilip@gordonrees.com 10 Attorneys for Plaintiff 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26

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## II. ORDER

Based on the foregoing Stipulation,

IT IS HEREBY ORDERED that the above-captioned claim is voluntarily dismissed pursuant to F.R.C.P. 41(a)(1)(A)(ii) and each side shall bear their own attorney fees, costs and expenses incurred in the instant action.

DATED this 16<sup>th</sup> day of May, 2017.

BENJAMIN H. SETTLE United States District Judge

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